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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KIRKPATRICK DUNBAR,

Plaintiff,

-against-

KC GOURMET EMPANADAS LLC, et al.,

Defendants.

22-CV-10453 (PAE) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge

The Court has received (i) plaintiff's letter-motion dated April 3, 2024 (Dkt. 77) seeking a discovery conference, and (ii) defendant 199 East 3rd Street, LLC's responding letter, dated April 18, 2024 (Dkt. 83).

The Court notes that plaintiff's letter-motion is out of compliance with Moses Ind. Prac. § 2(b) in that, among other things, it does not attach defendant's allegedly deficient responses to plaintiff's interrogatories and document requests. Defendant's responding letter is similarly out of compliance with § 2(b). The Court further notes that defendant failed to answer or otherwise respond to the Amended Complaint by March 29, 2024, which was its due date (*see* Dkt. 67), or at all. If plaintiff intends to seek the entry of a default against defendant 199 East 3rd Street, LLC, it shall do so no later than **May 7, 2024**.

Plaintiff's letter-motion is GRANTED to the extent that Judge Moses will hold a discovery conference on **May 10, 2024, at 11:30 a.m.**, in Courtroom 20A of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007.

Ahead of the conference, counsel for the parties shall meet and confer in good faith and in "real time" (*e.g.*, in person or by telephone) for at least 30 minutes, in an attempt to resolve their remaining disputes. No later than **May 7, 2024**, the parties shall file a joint reply letter, signed by counsel for both parties, affirming that they met and conferred in real time, outlining – succinctly

– what issues remain; and attaching "each discovery request *and response* in contention." Moses Ind. Prac. § 2(b).

The Court strongly recommends that defendant use the time between now and May 7 to *produce* the documents that were due with its Rule 26(a)(1) disclosures (*e.g.*, the Zurich American insurance policy), and to supplement its responses to plaintiff's interrogatories and document demands. On February 14, 2024, this Court directed defendant to serve its automatic disclosures by February 20, 2024. (Dkt. 54.) It is now far too late for defendant to demand a confidentiality order as the price of its overdue compliance. The same is true with respect to documents and interrogatory responses that were due by March 28, 2024. (*See* Dkt. 62.)

The parties are reminded that it is the Court's practice to decide discovery disputes at the conference, based on the parties' letters and such argument as may be presented at the conference.

Dated: New York, New York
April 26, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge